

### REMARKS

The present application includes pending claims 1-29, all of which have been rejected. By this Amendment, claims 2-3, 5-9, 11-13, 15-20, 22-27 and 29 have been amended to clarify aspects of the inventions. New claims 30-44 have been added.

The specification was objected to due to missing information in paragraph [0002]. This paragraph has been amended to overcome this objection.

The specification was also objected to because reference characters in paragraph [0046] did not conform to what is shown in Figure 1C. The Applicants have amended this paragraph to overcome this objection.

The drawings were objected to because "figure letter 'C' of Figure 5 is labeling an incorrect location as mentioned in the specification. According to paragraph [69] of the specification, reference character 'C' should be labeling where 'the first party 501 accesses the third-party channel 504 using a media guide user interface 502 on a PC 503'." See December 19, 2007 Office Action at page 3. The Applicants have attached a replacement drawing sheet that indicates that step C is proximate the first party 501.

Claims 1-8, 11-18 and 21-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 10/675,358. Claims 9, 10, 19, 20 and 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 10/675,358 and U.S. 7,065,778. The Applicants have attached a terminal disclaimer to overcome these rejections.

Claims 1, 5-9, 11, 15-20, 22-24 and 27-29 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2003/0115585 ("Barsness"). Claims 2-4, 10, 12-14, 21, 25 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0115585 ("Barsness") in view of U.S. 7,065,778 ("Lu"). The Applicants respectfully traverse these rejections for at least the following reasons:

**I. Barsness Does Not Anticipate Claim 1**

Independent claim 1 recites, in part, "sending at least one indication of media consumption activity to the at least a second location, via the communication network, if the at least one condition is met; and refraining from sending at least one indication of media consumption activity to the at least a second location, via the communication network, if the at least one condition is not met.."

Barsness discloses an "on-screen program guide formatted with viewership information." *See* Barsness at Abstract. Viewership data is "collected from a plurality of viewers" and then "processed to provide viewership information including viewership interest, viewership growth rates, surfing behavior, and other viewership behavior." *See id.* The viewership interest may include "group member information such as which members of a group are watching a particular program, group ratings of a program, individual member ratings of a program, and the like." *See id.* Thus, Barsness discloses a system in which group member information may be formatted on an on-screen program guide.

More specifically, Barsness discloses the following:

In general, viewership data is collected from a plurality of viewers, e.g., cable and satellite receivers. The viewership data is then processed to provide viewership information including viewership interest, viewership growth rates, surfing behavior, and other

viewership behavior. The viewership interest may also include group member information such as which members of a group are watching a particular program, group ratings of a program, individual member ratings of a program and the like. The viewership information may then be transmitted back to the viewers and displayed as part of an on-screen program guide or other visual interface.

*See id.* at [0025].

Barsness discloses that “groups” may be formed.

The group identification (ID) entry 414 and an anonymous flag entry 416 support a group viewership feature. As used herein, a “group” is any number of two or more viewing entities. The purpose of forming a group is to facilitate selective communication of viewership information. The groups may be formed by mutual agreement of each group member. In one embodiment, the groups are formed by submission of written requests by viewing entities. Alternatively, viewers may contact one another directly to request membership. One particularly efficient method of direct communication is by means of the receivers 104. For example, the receivers 104 may each be configured with e-mail clients (or other messaging clients), thereby facilitating communication via a network (e.g., the Internet).

Upon formation of a group, the group is assigned a group identification (ID). Each member of the group is then provided with the group ID, which is stored in the group ID entry 414. In some cases, a group member may desire to remain anonymous. In such cases, the anonymous flag entry 416 may be used to advantage.

*Id.* at [0048] and [0049]. Thus, Barsness discloses that groups are formed to “facilitate selective communication of viewership information.” *See id.* at [0048]. After the group is formed, each member is provided with the group ID, so that they can gain access to the group. *See id.* at [0049]. Further, “group information may be provided only to group members.” *See id.* at [0057]. An “explicit viewer” may “request to see the viewership indicators.” *See id.* at [0065].

While Barsness discloses that groups may be formed and the group IDs may be used to gain access to the group, Barsness does not describe, teach or suggest that users are notified of consumption of media by other users based on whether at least one condition received at the first location and defining when an indication of media consumption activity is met. That is, Barsness does not describe, teach or suggest “sending at least one indication of media consumption activity to the at least a second location, via the communication network, **if the at least one condition [received at the first location and defining when an indication of media consumption activity is sent by the first location to at least the second location] is met;** and refraining from sending at least one indication of media consumption activity to the at least a second location, via the communication network, **if the at least one condition [received at the first location and defining when an indication of media consumption activity is sent by the first location to at least the second location] is not met,**” as recited in claim 1. Thus, for at least these reasons, the Applicants respectfully submit that Barsness does not anticipate claims 1-10.

## **II. Barsness Does Not Anticipate Claim 11**

Claim 11 recites, in part, “notifying the user, at the first location, of the receipt of the at least one indication of media consumption activity, **if the at least one condition [used to determine when a user is notified of the receipt at a first location of an indication of media consumption activity at at least a second location] is met;** and refraining from notifying the user, at the first location, of the receipt of the at least one indication of media consumption activity, **if the at least one condition [used to determine when a user is notified of the receipt at a first location of an indication of media consumption activity at at least a second**

location]is not met.” The Applicants respectfully submit that Barsness does not anticipate claims 11-21 for at least the reasons discussed above with respect to claim 1.

### **III. Barsness Does Not Anticipate Claim 22**

Claim 22 recites, in part, “software that receives at least one indication of media consumption activity from the at least a second location, via the communication network, and that responds by notifying the user [at the first location] if the at least one user defined condition [for notifying the user at the first location] is met, and that refrains from notifying the user [at the first location] if the at least one user defined condition [for notifying the user at the first location] is not met..” The Applicants respectfully submit that Barsness does not render claims 22-29 unpatentable for at least the reasons discussed above with respect to claim 1.

### **IV. The Proposed Combination Of Barsness And Lu Does Not Render Claims 2-4, 10, 12-14, 21, 25 And 26 Unpatentable**

The Applicants respectfully submit that the proposed combination of Barsness and Lu does not render claims 2-4, 10, 12-14, 21, 25 and 26 unpatentable for at least the reasons discussed above.

### **V. New Claims 30-44**

New claims 30-44 have been added. The Applicants respectfully submit that Barsness, alone or in combination with Lu, does not render these claims unpatentable for at least the reasons discussed above.

The fee for these new claims is calculated as follows:

$$15 \text{ new claims} \times \$50/\text{claim} = \$750$$

$$2 \text{ new independent claims} \times \$210/\text{claim} = \$420$$

$$\textbf{\$TOTAL = \$1,170}$$

## **VI. Conclusion**

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, including the \$1,170 for new claims 30-44 and the \$130 fee for the terminal disclaimer, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: February 1, 2008

MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775-8100

/Joseph M. Butscher/  
Joseph M. Butscher  
Registration No. 48,326  
Attorney for Applicants